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Director & State Health Officer

State of California—Health and Human Services Agency  
**California Department of Public Health**



EDMUND G. BROWN JR.  
Governor

September 17, 2012

AFL 12-22

**TO:** Skilled Nursing Facilities  
Nursing Facilities

**SUBJECT:** Independent Informal Dispute Resolutions (IIDRs)

**AUTHORITY:** 42 Code of Federal Regulations (CFR) Section 488.431

Effective January 1, 2012, the State of California established an IIDR process, pursuant to 42 C.F.R. Sections 488.331 and 488.431, for Skilled Nursing Facilities that have received a deficiency with a scope and severity of “G” or greater and for which a Civil Money Penalty (CMP) is imposed by Centers for Medicare and Medicaid Services (CMS) and is subject to being placed in escrow.

The RN Unit within the Center for Health Care Quality is responsible for the IIDR process. The following processes and procedures for IIDR shall be followed:

1. Upon determination of a CMP, the Regional Office (RO) of the Centers for Medicare and Medicaid Services (CMS) will notify the facility of the right to an IIDR including contact information in an initial *Notice of Imposition of a CMP* letter to the facility. Upon receipt of a CMP notice by CMS, the facility has 10 calendar days to make a request to L&C Field Operations Branch District Office (DO) for an IIDR.
2. Upon receipt of a facility request for an IIDR, the DO will send the facility a letter that provides:
  - a. IIDR process information, including how the process begins and what type of information is needed; and
  - b. A designated contact person in the RN Unit to answer questions and concerns about the IIDR process.
3. A final decision shall be made by the RN Unit within 60 days from the date the DO receives a request for an IIDR from a facility.
4. For all IIDRs, the DO will notify in writing the affected resident or the resident’s representative and the State’s Long Term Care Ombudsman of the following:

- a. A brief description of the findings of noncompliance for which the facility is requesting the IIR and a reference to the relevant survey date;
  - b. The RN Unit contact information for IIR comments;
  - c. The contact information of a designated person to answer questions and concerns; and
  - d. For residents and/or the resident's representatives, the contact information for the State's Long Term Care Ombudsman.
5. The RN Unit will perform an IIR when the required documentation is received from the DO, the facility, the Ombudsman, and the Resident and/or Resident's Representative.
6. Upon receipt of documentation submitted by the facility and interested parties, the RN Unit will conduct a "paper-only" review of the challenged deficiencies. Due to the short timeframes for a final decision, once the IIR process has begun, no additional information will be accepted.
7. When the IIR is completed, the RN Unit will finalize the IIR recommendation. The originating DO will receive an electronic copy and a hard copy (via overnight mail) of the recommendation from the RN Unit.
8. Once an IIR recommendation is made and:
  - If the DO agrees with the recommendation, the DO will:
    - a. Send a letter summarizing the final decision to the facility with a copy to CMS, the resident or the resident's representative, and the State Long Term Care Ombudsman.
    - b. Change the deficiency or citation content findings, as recommended.
    - c. Adjust the scope and severity assessment for a deficiency, as recommended.
    - d. Change the deficiency or citation to "deleted" if recommended.
    - e. The District Office manager or supervisor will sign and date the revised CMS Form-2567.
    - f. Promptly recommend to CMS that any enforcement action(s) imposed solely because of a deleted or altered deficiency citation be reviewed, changed, or rescinded.
  - If the DO disagrees with the IIR recommendation of the RN Unit, the complete written record will be sent by the DO to the CMS RO to make the final decision. Upon notification by the CMS RO, the DO will communicate the final decision to the facility, the resident or resident's representative, and the State Long Term Care Ombudsman.

Facilities are responsible for following all applicable laws. CDPH's failure to expressly notify facilities of legislative or regulatory changes does not relieve them of this responsibility.

If you have any questions, please contact your local District Office.

Sincerely,

**Original signed by Debby Rogers**

Debby Rogers, RN, MS, FAEN  
Deputy Director  
Center for Health Care Quality